Settling a row out of court

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nstead of heading to court to try to resolve a dispute there are alternatives that may be better to try first. In an arbitration an arbitrator

In an arbitration an arbitrator or panel of arbitrators makes a binding decision. The parties have to pay the arbitrator, but the advantage is usually specialised knowledge in a sneedile area.

knowledge in a specific area.
Arbitrations are not open to
the public so they offer the
advantage of privacy. They can
also be quicker than court
proceedings because of limits on
available court time.

Mediation is where an independent third party assists the parties involved in a dispute to achieve a mutually acceptable resolution. Mediation is included in a number of legislative dispute resolution processes for instance in the areas of employment, family, residential tenancies and resource management.

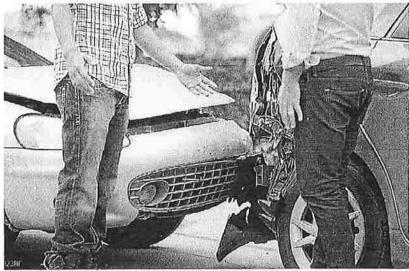
Parties in a mediation are free to agree on how some of the issues can be resolved. Mediations provide a faster and less expensiva way to solve problems and are not open to the public. They can also provide more remedies for resolving a dispute as the parties may agree on remedies that are not possible from a court-ordered outcome.

Negotiation is where parties, either themselves or represented by their lawyers, formally discuss matters of mutual concern and attempt to resolve the dispute that has arisen between them. This method of resolving disputes is usually quicker and cheaper than going to court and provides another potential way to resolve the dispute in private.

Some areas provide an onbudsman service that can rule on disputes e.g. insurance and banking.

banking.
Judicial settlement
conferences can occur where the
dispute has been lodged in court.
A judge will meet with the parties
and their lawyers to attempt to get
a resolution without the need for
a full court hearing. If the dispute
is not settled the full hearing is
then before a different judge.

This type of process can also include a meeting of the experts for both parties to see if areas of agreement between the experts can be reached. That narrows down the dispute for the parties.



"Mediations provide a faster and less expensive way to solve problems."

There are various tribunals that aim to resolve disputes between parties in a cost effective and timely manner.

Specialist iribunals available include the Tenancy Tribunal and Motor Vehicle Disputes Tribunal, that can hear claims of larger amounts than the non-specialist Disputes Tribunal, which can only hear claims up to \$15,000 (or \$20,000 with the consent of the parties).

parties).
These dispute resolution tribunals are usually quicker and cheaper than litigation in court but may be open to the public.

Lawyers can appear in the Tenancy Tribunal if the tribunal considers the issues to be complicated, the dispute is over \$6,000, or one of the parties is unable to present their case alequately. The tribunal may also allow legal representation if the parties agree.

Lawyers are not allowed to appear in the Disputes Tribunal, or Motor Vehicle Disputes Tribunal, or Motor Vehicle Disputes Tribunal except in special circumstances but lawyers can assist you to prepare for the hearing by drafting briefs of evidence, assisting with questions to ask the witnesses etc.

I Column courtesy of RAINEY COLLINS LAWYERS phone 0800 733 484, or see raineycollins.co.nz. If you have a legal inquiry you would like discussed in this column please email Alau, on aknowsley#raineycollins.co.nz

